



UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: James T. Moore
Telephone: (703) 308-9797
Facsimile: (703) 305-0942

MAILED

JUL 9 - 2004

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Applicants: Moore et al.
Application No.: 09/451,319
Filed: 11/30/99
For: Preparation of concentrated
aqueous bromine solutions and biocidal
application thereof

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,222.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).



James T. Moore
Administrative Patent Judge

Filed by:

James T. Moore
Administrative Patent Judge
Board of Patent Appeals and Interferences
United States Patent and Trademark Office
Mail Stop Interference
PO Box 1450
Arlington, VA 22313-1450
Tel: (703) 308-9797
Fax: (703) 305-0942

Filed:
9 July 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Administrative Patent Judge James T. Moore)

SHUNONG YANG, WILLIAM F. McCOY,
and

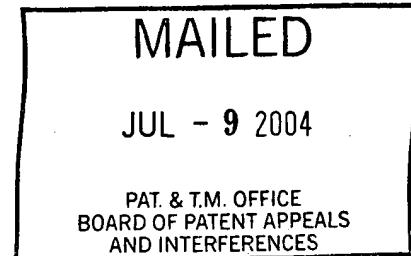
ANTHONY W. DALLMIER

Junior Party,
(Patent 6,423,267)

v.

ROBERT M. MOORE
and
CHRISTOPHER J. NALEPA

Senior Party,
(Application 09/451,319).



Patent Interference No. 105,222 (JTM)

DECLARATION
(37 CFR § 1.611)

Part A. Declaration of interference

An interference is declared (35 U.S.C. 135(a)) between the above-identified parties. Details of the application, patent, count, and claims designated as corresponding or as not corresponding to the count appear in Parts E and F of this NOTICE DECLARING INTERFERENCE.

Part B. Judge designated to handle the interference

Administrative Patent Judge James T. Moore has been designated to handle the interference. 37 CFR § 1.610(a).

Part C. Standing order

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

Part D. Conference call to set dates

A telephone conference call to set dates for action in this interference is scheduled for **1 p.m. (Eastern) on September 1, 2004** (the call will be initiated from the PTO).

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See STANDING ORDER ¶10.

A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies the NOTICE DECLARING INTERFERENCE. Counsel are encouraged to discuss the order prior to the conference call with the view to coming to some agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine (9) months. Counsel should be prepared to justify any request for a longer period.

E. The parties involved in this interference are:

Junior Party:

Named Inventors: SHUNONG YANG, Naperville, Illinois
WILLIAM F. McCOY, Naperville, Illinois
ANTHONY W. DALLMIER, Aurora, Illinois

Patent: 6,423,267, issued July 23, 2002, based on
Application 09/517,760, filed March 2, 2000

Title: STABLE OXIDIZING BROMINE FORMULATIONS,
METHOD OF MANUFACTURE, AND USES THEREOF
FOR BIOFOULING CONTROL

Accorded benefit: 09/106,602, filed June 29, 1998

Assignee: NALCO CHEMICAL COMPANY
ONE NALCO CENTER
NAPERVILLE IL 60563-1198

Attorneys: See last page

Address: See last page

Senior Party

Named Inventors: ROBERT M. MOORE, Baton Rouge, Louisiana
CHRISTOPHER J. NALEPA, Baton Rouge, Louisiana

Application: 09/451,319, filed November 30, 1999

Title: PREPARATION OF CONCENTRATED AQUEOUS BROMINE
SOLUTIONS AND BIOCIDAL APPLICATION THEREOF

Accorded Benefit: Application 09/088,300, filed June 1, 1998

Assignee: None

Attorneys: See last page

Address: See last page

F. Counts and claims of the parties**Count 1**

Claim 14 of US Patent 6,423,267; reproduced below:

14. A stable oxidizing bromine compound prepared by the following steps:

preparing a caustic solution comprising a halogen stabilizer, water and an alkali or alkaline earth metal hydroxide, the halogen stabilizer being selected from the group consisting of $R - NH_2$, $R - NH - R^1$, $R - SO_2 - NH_2$, $R - SO_2 - NHR^1$, $R - CO - NH_2$, $R - CO - NH - R^1$ and $R - CO - NH - CO - R^1$ wherein R is a hydroxy group, an alkyl group or an aromatic group an [sic – and] R^1 is an alkyl group or an aromatic group,

adding bromine to the solution while mixing the solution, and

cooling the solution.

The claims of the parties are:

Yang: Claims 1-37

Moore: Claims 61-70.

The claims of the parties which correspond to Count 1 are:

Yang: Claims 1, 2, 12, 14, 15, 25, 27, and 28.

Moore: Claims 66-70.

The claims of the parties which do not correspond to Count 1, and therefore are not involved in this interference are:

Yang: Claims 3-11, 13, 16-24, 26, and 29-37

Moore: 61-65.

Part G. Heading to be used on papers

The following heading shall be used on papers filed in the interference. See STANDING ORDER ¶ 3.5.

Paper _____

Filed on behalf of [name of party]

By: Name of lead counsel

Name of backup counsel

Street address

City, State, and ZIP Code

Tel:

Fax:

email@isp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Administrative Patent Judge James T. Moore)

SHUNONG YANG, WILLIAM F. McCOY,
and
ANTHONY W. DALLMIER

Junior Party,
(Patent 6,423,267)

v.

ROBERT M. MOORE
and
CHRISTOPHER J. NALEPA

Senior Party,
(Application 09/451,319).

Patent Interference No. 105,222 (JTM)

TITLE OF PAPER

¹ Leave a blank line because the board assigns the paper number.

H. Summary of dates for taking action

Times for taking action are set out in the following sections of the STANDING ORDER:

- ¶ 4: date for identifying lead and backup counsel.
- ¶ 5: date for identifying any real party in interest.
- ¶ 6: date for requesting copies of involved and benefit applications and patents.
- ¶ 7: date for accomplishing certain discovery.
- ¶ 8: date for filing clean copy of claims.
- ¶ 9: date for filing clean copy of claims in cases with drawings or claims containing a means plus function limitation.
- ¶ 10: date for filing list of proposed preliminary motions.
- ¶ 13.10.2 dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
- ¶ 14.1.1: date for objecting to admissibility of evidence.
- ¶ 14.2: date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
- ¶ 14.3: dates when cross-examination can take place.
- ¶ 15.2: dates for taking action with respect to settlement discussions.

Attached is a spreadsheet indicating dates for these and other events in both the preliminary motion and priority phases.

I. Order form for requesting file copies

FILE COPY REQUEST
Interference 105,222 (JTM)

A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a circle by hand around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPTO Deposit Account No. _____
2. Complete address, including street, city, state, ZIP code and telephone number (do not list a Post Office box because file copies are sent via commercial overnight courier).

Telephone, including area code: _____

Part J. Signature of administrative patent judge



James T. Moore
Administrative Patent Judge

Date: 9 July 2004

Enc:

Copy of STANDING ORDER

Copy of order used for setting times for taking action in the preliminary motion phase of the interference

Copy of U.S. Patent 6,423,267 B1

Copy of claims of 09/451,319

Revised May 2003

cc (via overnight delivery):

Counsel for Yang:

KELLY L CUMMINGS
PATENT & LICENSING DEPARTMENT
NALCO CHEMICAL COMPANY
ONE NALCO CENTER
NAPERVILLE IL 60563-1198

Counsel for Moore:

EDGAR E. SPIELMAN
ALBEMARLE CORPORATION
451 FLORIDA BLVD.
BATON ROUGE LA 70801-1765



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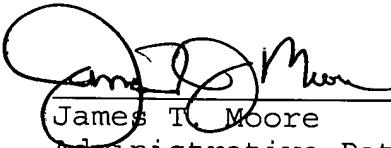
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Facsimile: (703) 305-0942

Applicants: Moore et al.
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Filed: 11/30/99
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application thereof

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Administrative Patent Judge

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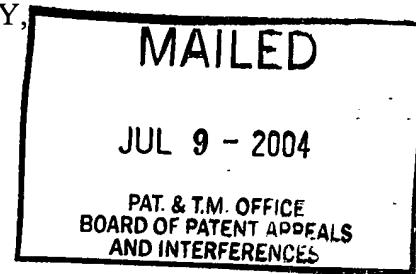
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(Administrative Patent Judge James T. Moore)

SHUNONG YANG, WILLIAM F. McCOY,
and
ANTHONY W. DALLMIER

Junior Party,
(Patent 6,156,229)

v.



ROBERT M. MOORE
and
CHRISTOPHER J. NALEPA

Senior Party,
(Application 09/451,319).

Patent Interference No. 105,223 (JTM)

DECLARATION
(37 CFR § 1.611)

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E. The parties involved in this interference are:

Junior Party:

Named Inventors: SHUNONG YANG, Naperville, Illinois
WILLIAM F. MCCOY, Naperville, Illinois
ANTHONY W. DALLMIER, Aurora, Illinois

Patent: 6,156,229, issued December 5, 2000, based on
Application 09/106,602, filed June 29, 1998

Title: STABLE OXIDIZING BROMINE FORMULATIONS,
METHOD OF MANUFACTURE, AND USES THEREOF
FOR BIOFOULING CONTROL

Accorded benefit: None

Assignee: NALCO CHEMICAL COMPANY
ONE NALCO CENTER
NAPERVILLE IL 60563-1198

Attorneys: See last page

Address: See last page

Senior Party

Named Inventors: ROBERT M. MOORE, Baton Rouge, Louisiana
CHRISTOPHER J. NALEPA, Baton Rouge, Louisiana

Application: 09/451,319, filed November 30, 1999

Title: PREPARATION OF CONCENTRATED AQUEOUS BROMINE
SOLUTIONS AND BIOCIDAL APPLICATION THEREOF

Accorded Benefit: Application 09/088,300, filed June 1, 1998

Assignee: None

Attorneys: See last page

Address: See last page

F. Counts and claims of the parties**Count 1**

Claim 10 of US Patent 6,156,229; reproduced below:

10. A method of generating a stable oxidizing bromine compound, the method comprising the following steps:

preparing a caustic solution comprising a halogen stabilizer, water and an alkali or alkaline earth metal hydroxide, the halogen stabilizer being selected from the group consisting of $R - NH_2$, $R - NH - R^1$, $R - SO_2 - NH_2$, $R - SO_2 - NHR^1$, $R - CO - NH_2$, $R - CO - NH - R^1$ and $R - CO - NH - CO - R^1$ wherein R is a hydroxy group, an alkyl group or an aromatic group and R^1 is an alkyl group or an aromatic group,

adding bromine to the solution while mixing the solution, and

cooling the solution.

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Moore: Claims 61-70.

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Yang: None

Moore: 66-70.

Part G. Heading to be used on papers

The following heading shall be used on papers filed in the interference. See STANDING ORDER ¶ 3.5.

Paper ¹

Filed on behalf of [name of party]

By: Name of lead counsel

Name of backup counsel

Street address

City, State, and ZIP Code

Tel:

Fax:

email@isp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
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and
ANTHONY W. DALLMIER

Junior Party,
(Patent 6,156,229)

v.

ROBERT M. MOORE
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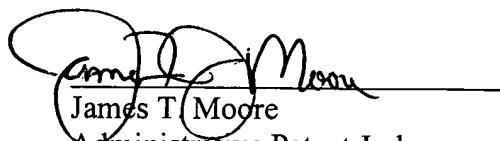
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Part J. Signature of administrative patent judge



James T. Moore
Administrative Patent Judge

Date: 9 July 2004

Enc:

Copy of STANDING ORDER

Copy of order used for setting times for taking action in the preliminary motion phase of the interference

Copy of U.S. Patent 6,156,229

Copy of claims of 09/451,319

Revised May 2003

cc (via overnight delivery):

Counsel for Yang:

KELLY L CUMMINGS
PATENT & LICENSING DEPARTMENT
NALCO CHEMICAL COMPANY
ONE NALCO CENTER
NAPERVILLE IL 60563-1198

Counsel for Moore:

EDGAR E. SPIELMAN
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